



resolve a discovery dispute, Plaintiff advised Defendants that any information about Near Me, a business Plaintiff started when AEY closed, would have to be obtained from his wife, Jenifer Wilson. (ECF 94-1 ¶ 7; ECF 94-4 at 2).

Accordingly, on April 4, 2024, Defendants sent the Subpoena to Near Me c/o Jenifer Wilson, via certified mail. (ECF 94-2; ECF 99 ¶ 2; ECF 99-2). Defendants also emailed a copy of the Subpoena to Plaintiff that same day. (ECF 99 ¶ 1; ECF 99-1). Proof of service shows that the Subpoena was served on April 9, 2024, and signed for by “J. Wilson.” (ECF 99-2). On May 7, 2024, having received no response from Near Me, Defendants’ counsel sent a follow-up letter about the Subpoena to Near Me c/o Jenifer Wilson, stating that if they did not receive an adequate response by May 21, 2024, they would seek appropriate redress with the Court. (ECF 94-3; ECF 94-4 at 3).

Defendants filed the instant motion to compel on May 29, 2024. (ECF 94). As stated earlier, neither Near Me nor Plaintiff has responded to the motion.

### *B. Applicable Law*

“With regard to requesting discovery from non-parties, Rule 45 of the Federal Rules of Civil Procedure outlines the procedures for serving a third party with a subpoena for testimony or document production.” *Metal Chem, Inc. v. PBTT, Inc.*, No. 3:22-cv-00140-MPB-MJD, 2023 WL 3161029, at \*1 (S.D. Ind. Apr. 28, 2023) (citing Fed. R. Civ. P. 45). “[W]hile the third party may timely object to the requested production, the serving party then ‘may move the court . . . for an order compelling production or inspection of the requested materials.’” *Id.* (second alteration in original) (internal quotation marks omitted) (citing Fed. R. Civ. P. 45(d)(2)). The Court has “broad discretion in discovery matters, including when ruling on a motion to compel discovery.” *Id.* (brackets omitted) (citing *Packman v. Chi. Trib. Co.*, 267 F.3d 628, 646 (7th Cir.

2001)). Rule 45(g) states that the court “may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.” Fed. R. Civ. P. 45(g); *see Metal Chem, Inc.*, 2023 WL 3161029, at \*1.

*C. Discussion*

Defendants have adequately attempted to confer in good faith with Near Me in an effort to resolve this matter without Court action. (ECF 94-1, 94-3); *see* Fed. R. Civ. P. 37(a)(1); N.D. Ind. L.R. 37-1(a). Near Me, however, appears to have ignored the Subpoena and Defendants’ counsel’s attempt to follow up on it. Nor did Near Me file a response in opposition to the motion to compel, and its time to do so has passed. Consequently, on this record, the motion to compel is unopposed and will be GRANTED. Near Me must provide Defendants with the documents responsive to the Subpoena on or before July 29, 2024, or risk being held in contempt for failing to obey the Subpoena. Fed. R. Civ. P. 45(g).

*D. Conclusion*

For the foregoing reasons, Defendants’ motion to compel discovery responses from Near Me (ECF 94) is GRANTED. Non-party Near Me Electric, LLC, is ORDERED to produce the documents responsive to the Subpoena to Defendants on or before July 29, 2024. Near Me is CAUTIONED that its failure to timely do so may result in its being held in contempt of court. Fed. R. Civ. P. 45(g). The Clerk is DIRECTED to send a copy of this Opinion and Order to Near Me Electric, LLC, c/o Jenifer Wilson, 11620 Red Cedar Cv., Fort Wayne, IN 46845.

SO ORDERED.

Entered this 15th day of July 2024.

/s/ Susan Collins  
Susan Collins  
United States Magistrate Judge